

**REPORT BY THE COMMONWEALTH AND
IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT**

Under s 486O of the Migration Act 1958

This is the first s 486O report on Mr X who has remained in immigration detention for a cumulative period of more than 30 months (two and a half years).

Name	Mr X
Citizenship	Country A
Year of birth	1984
Ombudsman ID	1002442-O
Date of DIBP's reports	5 July 2016 and 3 January 2017
Total days in detention	912 (at date of DIBP's latest report)

Detention history

23 May 2013	Detained under s 189(1) of the <i>Migration Act 1958</i> after arriving on the Australian mainland ¹ aboard Suspected Illegal Entry Vessel 710 <i>Petworth</i> . He was transferred to Northern Immigration Detention Centre (IDC).
8 June 2013	Transferred to Wickham Point Alternative Place of Detention.
14 August 2013	Transferred to Curtin IDC.
13 March 2014	Granted a Bridging visa and released from restricted detention.
28 July 2014	Charged with criminal offences and remanded in custody.
26 April 2015	Re-detained under s 189(1) following release from criminal custody and transferred to Villawood IDC.
11 June 2015	Transferred to Yongah Hill IDC.

Visa applications/case progression

The Department of Immigration and Border Protection (the department) advised that prior to ministerial intervention, Mr X was part of a cohort who had not had their protection claims assessed as they arrived in Australia after 13 August 2012 and were subject to the bar under s 46A.	
13 March 2014	Granted a Bridging visa which was cancelled on 28 July 2014 under s 116 following criminal charges.
25 August 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
1 September 2015	The department invited Mr X to apply for a temporary visa.
14 September 2015	Found not to meet the guidelines for referral to the Minister under s 195A.

¹ Following legislative amendment on 20 May 2013, all unauthorised maritime arrivals, including those who arrived on the Australian mainland or an 'excised offshore location' were barred from lodging a Protection visa application under s 46A.

9 October 2015	Lodged a Safe Haven Enterprise visa (SHEV) application.
4 July 2016	SHEV application refused.
8 July 2016	Mr X's case was referred to the Immigration Assessment Authority (IAA) for review.
7 September 2016	The IAA affirmed the decision to refuse Mr X's SHEV application.
30 September 2016	Requested judicial review by the Federal Circuit Court. The matter was listed for hearing on 15 February 2017.
23 December 2016	Mr X's case was referred on a ministerial submission for consideration under s 195A for the grant of a Bridging visa.

Criminal history

28 July 2014	Mr X was charged with reckless wounding and was convicted on 3 November 2014. He was sentenced to 12 months imprisonment with a non-parole period of nine months.
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Health and welfare

International Health and Medical Services (IHMS) advised that Mr X disclosed a history of torture and trauma and attended regular specialist counselling sessions. Following disclosure of suicidal ideation in August 2016 he was placed on Supportive Monitoring and Engagement observations and engaged with the mental health team as required.

IHMS further advised that Mr X received treatment for epigastric pain and eye concerns.

Case status

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion and has been held in detention for more than two and a half years. At the time of the department's latest review Mr X was awaiting the outcome of judicial review.